Previous references.

FILE NO. 227/07

1908

Serial Nos. 1–3

(Courts)

Later references.

As 61–08 1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–3.

Part B. for April '08

SUBJECT.

Illegal surrender of an undertrial prisoner, named Kadarigadu, by the Magistrate of Gudibhanda Taluk to the Hindupur Taluk Magistrate.

Table of Contents.

1. From the Dt. Magte, Kolar No 5150/217 dt/15.2.08 forwards for the orders of Govt a copy of the Proceedings passed by him on the Bagepalli Taluk Inspector's report in the matter of the surrender of a convict to the Hindupur Taluk Magistrate
2. To the Dt. Magte, Kolar, No I.J.P.Nos. 2910-08 dt/25.3.08.

G. R. S. 58 observing that the action of the Gudibanda Magistrate in handing over the undertrial prisoner to the Hindupur Magistrate was irregular, and stating that the latter Magistrate may be informed that the convict is accused is a prisoner in the Central Jail

and that if a warrant is issued it will be executed on the expiry of the sentence of imprisonment.

3 To the A. G. Resident No Pol 806 dt 31-8-08

Forwards for information a copy of the above proceedings

G.R.S. 11] 1907-08

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

Ct. File. No. 227-07

FILE HEADING.

Illegal surrender of an undertrial prisoner named Kadariguden by the magistrate of Gudibanda Taluk to the Hindupur Taluk magistrate.

From

The District magistrate of Kolar.

No. 5150/217 Dated 15-2-08 Received 17-2-1908.

Diary No. 2115	Enclos. one Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards for the orders of Govt. a copy of the proceedings passed by him on the Bagepally Taluk magistrate's report in the matter of the surrender of a convict by name Kadariguden to the Hindupur Taluk magistrate.

NOTES AND ORDERS.

1 Paras 1 & 2 of the District magistrates' order give the facts of the case

Submitted for orders

HCS 18/2/08 [illegible]

2 — In para 4 of the order the Dt. Magte observes that the Deputy Amildar should

NOTES —First sheet.

GPE—30,000—20-3-06.

G. R. S. 12]
General and Revenue Secretariat.

File No. 27 of 1907

Serial No.

not have surrendered the accused who was on trial before him to the Tindivanam Magistrate and that he should have sought his instructions under Section 9 of the Prisoners' Testimony Regulation V of 1894. It is a matter for consideration whether the Dt. Magte's interpretation of the law is correct. The Prisoners' Testimony Regulation V of 1894 applies only to the Mysore State & not to British India & further the procedure prescribed therein is ~~only~~ for securing the attendance of prisoners — Convicted or undertrial — for purposes of giving evidence in a trial. In the present instance the man was asked to be handed over for trial and he was not undergoing a sentence, to come under the scope of Govt notification No. J 219 - Legis 14-04-14 dated the 20th July 1907. It appears therefore that the Deputy Assistant Magistrate cannot be blamed for having surrendered the accused in accordance with the Chief Commissioner's notification III of 1878. The fact of the accused having been surrendered to the State without an extradition warrant cannot make the subsequent procedure of the Mysore

This is not correct. Please refer to Sec 2.

NOTE—Contn sheet.

GPB—50,00017—3-07

G. R. S. 12]
General and Revenue Secretariat.

C.C. File No. 127 of 1907

Serial No.

Magistrate — in convicting & sentencing the accused — illegal, (vide Govt Proceedings No. 10172-80 | J. 1098 & 22-2-1898 & No. 120 29-37/J.137 dated 24-3-1898). He must therefore undergo the sentence passed by the Mysore Magistrate and if he is wanted by the Hindupur Magistrate, ~~he should be~~ a formal requisition should be made by him and the accused ~~should be~~ should be surrendered after the expiry of his sentence. ~~under~~ (vide paras 6 & 7 of Govt order of the 6th January 1906).

1

3 Subd for orders. A reference to the Residency seems necessary.

SN
21/1/08

4 There are three points for consideration in this case:—

(1) does the Chief Comr's notification of 1878 apply to a case of this kind? was the deputy Amildar magistrate right in surrendering the accused to the Hindupur magistrate? If not, what is the procedure which he should have adopted?

5 The notification of 1878 directs ~~the~~ the execution in Mysore by magistrates and Police officers, of processes issued by magistrates in

NOTE—Contn sheet.

GPB—50,00017—3-07

Serial No.

British India. It does not provide for the execution of such a process by an officer in charge of a prison. The question of extending its terms so as to authorise an officer in charge of a jail to act upon an order issued by a magistrate of British India for the production of a prisoner, was taken up in 1904, and after a long correspondence with the Residency for nearly three years, the notification dated 20th July 1907 was issued in respect of it. To bring a case under that notification, the prisoner must have been convicted by a criminal Court in Mysore for an extradition offence and must have been charged with the commission of an extradition offence in British India.

6 In the present case, the accused was in the Gudibanda lock-up as an under-trial prisoner when the Deputy Amildar Magistrate received for execution the warrant issued by the Hindupur

Note—Contn sheet.

GPB—50 000—17-3-07

G. R. S. 12]
General and Revenue
Secretariat.

C.V. File No. 57 of 1907

Serial No.

magistrate - The lock-up in Gudi-
banda is in charge of the Deputy
Amildar and it was thus easy for
him to act on the warrant and
surrender the accused - But what
was his authority for justifying this
action? He cannot rely on the noti-
fication of 1878 for he should be
presumed to have surrendered the
accused not as magistrate but
as officer in charge of the lock-up
and that notification has nothing
to do with ~~a~~ an officer
in charge of a jail and confers
no authority on him - Nor can he
call in aid the notification of
1907 for the accused was in the
lock-up pending trial and not
confined under a sentence and
further the offence for which
his surrender was demanded
was one punishable under sec 176
I. P. C and ~~is~~ was not an
extradition offence - The surrender
~~was~~ therefore was illegal, what
the Deputy Amildar should have

GPB-50,00017—3-07

G.R.S. 12J
General and Revenue Secretariat.

A. File No. - - , of 190)

Serial No.	
	done was to have returned the warrant to the Hindupur Magistrate and communicated to him the circumstances under which it was impressed could not be executed.
	7 The Dist. Magistrate refers to these proceedings Re to Regulation V of 1894 and particularly to sec 9 thereof and states that the Deputy Amildar should have made a report to him and sought his orders. That Regulation was passed solely in 1894 and applies only to cases where the Court requiring the appearance of the prisoner and the prison from which he is to be brought are both within Mysore (Vide Residency letter no 4848 dated 29th Aug 1905). The provisions thereof were never extended, to apply nor do they apply to an order issued by a Magistrate ~~out~~ in British India. Further, the District Magistrate seems to have completely lost sight of the fact that the notification of 1878 confers

NOTE—Contn. sheet

GPB—40,000—12-5-06

G.R.S. 12]
General and Revenue Secretariat.

File No. of 190

Serial No.

no authority on an officer in charge of a jail to execute a process issued by a magistrate in British India.

(ii) Was the Hindupur magistrate right in resurrendering the accused after convicting him, without a warrant under the Extradition Act? The answer is plain - The resurrender of the accused without a warrant under sec 7 was clearly illegal.

(iii) Whether the prisoner is to be surrendered to the Hindupur magistrate before he completes the sentence passed on him by the Bagepalli magistrate? It may be mentioned here that the case of the accused was transferred to the Court of the Bagepalli Magistrate from that of the Gurubande magistrate and that he was found guilty and convicted by the former. Had the accused If an extradition warrant had been applied for and the surrender

NOTE—Contn. sheet

GPB—40,000—12-5-06

G.R.S. 12]
General and Revenue Secretariat.

F File No. 1 of 190)

Serial No.

of the accused obtained thereunder, no doubt, under section 11 of the Extradition Act, he should now be resurrendered on the completion of his trial - But there however has been a series of irregularities and but for the initial mistake of the Deputy Amildar, the necessity of applying for a warrant with the condition of resurrendering attached to it according to section 11, would not have arisen at all.

(2) May an order be passed accordingly and a copy thereof forwarded to the Residency for information?

Secy) 22-2-08 JWW

4) Please put up a brief draft as the man maybe surrendred after the expiry of his sentence here, if a warrant is received from the British Magte.

CJZ
24/2/08
JWW

(2) 24-2-

NOTE—Contn. sheet

GPB—40,000—12-5-06

Serial No.	
	12 Submitted with a draft order and a draft letter to the Residency. Submitted 27.2.08
	13 The drafts may be approved. [The matter is of sufficient importance for submission to the Dewan before the Drafts issue]
	Dewan
	14 Draft approved by Dewan with some alterations in the G.O.
	15 Issue
2	To the District Magistrate of Kolar. & D.J. of Prisons for Communication to the Superintendent Central Jail & Other District Magistrates G.O. 2940-48 25.3.08

NOTE—Contn sheet.

GPB—50 000—17-3-07

G. R. S. 12]
General and Revenue Secretariat.

G. File No. 227 of 1907-08

Serial No.	
	Observes that the action of the Gudibanda magistrate in handing over the undertrial prisoner to the Hindupur magistrate was irregular and states that the latter magistrate may be informed that the accused person is a convict in the Central jail and that if a warrant is issued after it will be executed on the expiry of the sentence of imprisonment
	To the First Assistant Resident in Mysore No Jd 806 dt 31.3.08. Forwards for information a copy of the above Govt Proceedings.

NOTE—Contn sheet.

GPB—50 000—17-3-07

J 2115.

URGENT.

No. 5150/217 Rec. Rec

District Magistrate's Office,
Kolar District,
Dated Kolar, 13th February 1908.

15

From

C. Srikantesvara Aiyar Esqr., B.A. B.L.,
District Magistrate, Kolar District.

To

C. S. Balasundaram Iyer Esqr., B.A.,
Offg. Secretary to the Govt. of H. H. the Maharaja
of Mysore, General & Revenue Departments.

Lg 27-07
Gen 1

Sir,

I have the honor to submit herewith for the information of Government and such action as they may deem fit to institute and pass orders thereupon, copy of my Proceedings passed to-day on the report No. 603 dated the 23rd January 1908, from the Amildar and 2nd Class Magistrate of Bagepalli Taluk, soliciting instructions in the matter of handing over to the Hindupur Taluk Magistrate a convict Kadarigadu, who on the 20th idem was convicted and sentenced by the said Bagepalli Magistrate to three months rigorous imprisonment under sections 380 and 75 of the Indian Penal Code, which he is now undergoing in the Central Jail at Bangalore.

I have the honor to be,
Sir,
Your most obedient servant,

Srikantesvara Aiyar

District Magistrate,
Kolar District.

2

Proceedings of the District Magistrate, Kolar District.

This 13th day of February 1908, at Kolar.

Present C. Srikantesvara Aiyar Esqr., B.A. B.L.,
District Magistrate.

Read:-

Report No. 603 dated the 23rd January 1908, from the Amildar and 2nd Class Magistrate of Bagepalli Taluk, soliciting instructions in the matter of handing over to the Hindupur Taluk Magistrate, one Kadarigadu now undergoing in the Bangalore Central Jail, the sentence of three months rigorous imprisonment passed on him by the said Bagepalli Taluk Magistrate on 20th January 1908 in Criminal Case No. 39 of 1907-08 on the file of his Court, for offences under sections 380 and 75, Indian Penal Code.

x
Government
VS
Kadarigadu &
Abdul Karim.
x

O R D E R.

From the report read above it is seen that, on the representation of the Deputy Amildar and 3rd Class Magistrate of Gudibanda Sub Taluk that one of the accused jointly tried in Criminal Case No. 8 of 1907-08 on the file of his Court was an old offender, the case was transferred by the District Magistrate to the Amildar and 2nd Class Magistrate of Bagepalli Taluk for disposal. Before the said order reached the Gudibanda Magistrate, he, on receipt of a warrant issued by the Hindupur Taluk Magistrate, had sent Kadarigadu, one of the accused in the said case, to Hindupur, for trial for a non-extraditable offence under section 176, Indian Penal Code, committed within the jurisdiction of that Magistrate, who having convicted and sentenced him to three months imprisonment, retransmitted the prisoner Kadarigadu to the Gudibanda Magistrate with his letter Reference Cr. C. No. 316 of 1907 dated the 15th December 1907, requesting that the said prisoner might be sent back to

x
Government
VS
Kadarigadu &
Abdul Karim.
x

undergo the sentence in the Bellary Jail after his trial in Mysore State was concluded.

2. In pursuance of the District Magistrate's order of transfer referred to above, the Bagepalli Magistrate tried the said Kadarigadu, ~~and~~ p when placed before him, along with another accused Abdul Karim and convicted both under sections 380 and 75, Indian Penal Code, and having sentenced Kadarigadu to three months rigorous imprisonment on 20th January 1908, sent him to the Central Jail, Bangalore, where he is now undergoing the said sentence which expires on 19th April 1908. After so transmitting him to the Central Jail, Bangalore, the Bagepalli Taluk Magistrate now solicits instructions in the matter of sending the said Kadarigadu to the Hindupur Magistrate as per his requisition referred to above.

3. The records in the case on the file of the Bagepalli Taluk Magistrate have been called for, for examination.

4. Meanwhile, it is observed that the Deputy Amildar Magistrate erred in interpreting the late Chief Commissioner's Notification No. 111 dated 23rd July 1878 as applying to the case before him. Under that Notification "All criminal processes of whatsoever description when issued by any Magistrate having jurisdiction in any District in British India shall be acted upon and executed by all Magistrates and Police Officers in Mysore under the same conditions and in the same manner, as if such processes had been issued by a Magistrate having jurisdiction in Mysore". If, under the circumstances noted above, a Magistrate in Mysore had issued a warrant for the arrest of Kadarigadu, the Deputy Amildar Magistrate should have sought the orders of the District Magistrate and have sent to the Court issuing the warrant a statement of his reasons for not obeying the same - Vide Section 9 of the Prisoners Testimony Act, Regulation No. V of 1894. The Deputy Amildar Magistrate, who is also the Lock-up Officer himself, should have reported similarly to the District Magistrate and intimated accordingly to the Hindupur Magistrate and not sent Kadarigadu to Hindupur before the trial for which he was under remand at Gudibanda.

page 275 Vol. II of the Mysore Code

5. Having once parted with him, he could have been legally brought back to Mysore for trial only under the provisions of the Extradition Act of 1903, on a requisition through the Hon'ble the British Resident. The Hindupur Magistrate's having surrendered him, though without such a requisition, must however be construed as being in consonance with section 11 of the Extradition Act which expressly lays down that "a person accused of an offence committed in British India ..... or undergoing sentence under any conviction in British India, shall not be surrendered ..... except on condition that such person be resurrendered, ... on the termination of his trial for which his surrender has been asked". Had he therefore been formally extradited, he might have been re-surrendered on the conclusion of the trial.

6. But under the circumstances herein set forth, such course is not open and the question now raised by the Bagepalli Taluk Magistrate, after sending the prisoner to the Central Jail, Bangalore, necessitates a reference to Government regarding the disposal of the prisoner Kadarigadu, as his surrender now is neither covered by the said section 11 of the Extradition Act, nor by any of the clauses in Government Proceedings No. J.F.2013-23/Legis.141-04-15 dated the 6th January 1908, which refers to requisitions by Magistrates in British India for purposes of trial and not to the re-surrender of a prisoner who, besides as in the present case, is a convict for a non-extraditable offence committed in British India.

7. Pending special orders of the Government, the Bagepalli Taluk Magistrate is requested to inform the Hindupur Magistrate of the fact of the prisoner undergoing sentence in the Central Jail at Bangalore and of the date of the expiry of the said sentence.

Sd/ C. Srikantesvara Aiyar,

District Magistrate.

C O P Y./

District Magistrate,
Kolar District.

G.R.S. 28]

Fair Draft

to File No. 227-07
Serial No. 2

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 190

Date of issue 25-3-08

Signed by Mr. ~~K.G.K.~~ Mylar Rao

Issued in type to Dt Supt Kolar & 28 Persons
Printed copies issued 9-4-08

No J. 2940-48 dated
Rls 227-07-2
25th March 1908

READ.—

Letter no 5150/217 dated the 15th February 1908, from the District Magistrate of Kolar, forwarding for the orders of Government, a copy of his Proceedings dated 13th February 1908, passed on ~~the~~ Report no 603 of the 23rd January 1908 from the Amildar and 2nd class Magistrate of Bagepalli soliciting instructions regarding the surrender of a convict Kadarigadu to the Taluk Magistrate of Hindupur

ORDER THEREON. ~~No.~~

Order thereon.

The facts of the case are briefly these:— *over*

SUBJECT

MGCPB—20,000—24-2-...

Two persons Kadarigadu and Abdul Karim were jointly tried by the Deputy Amildar and 3rd class magistrate of Gudibanda Sub Taluk in Criminal case no: 8 of 1907-08 on the file of this court. On the representation of the magistrate that one of the accused was an old offender, the case was transferred by the Dist. Magistrate of Kolar to the Amildar and 2nd class magistrate of Bagepally Taluk for disposal.

Before the said order reached the Gudibanda magistrate, he had, on receipt of a warrant from the Hindupur Taluk magistrate, sent Kadarigadu, one of the accused in the said case, to Hindupur for trial for a non-extradition offence under Sec 176 I.P.C. committed within the jurisdiction of that magistrate. The Hindupur magistrate after having convicted and sentenced Kadarigadu to three month's imprisonment, re-transmitted

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

him, to the Gudibanda Magistrate with the request that the said prisoner might be sent back to undergo the sentence awarded ~~by~~ to him in the proper, after his trial in the Mysore State was concluded. In pursuance of the Dist. Magistrate order of transfer referred to above, the Bagepalli Magistrate tried the said Kadarigadu, convicted him under sections 380 and 75 I.P.C and sentenced him to three months' rigorous imprisonment on 20-1-1908. The accused was then forwarded to the Central Jail, Bangalore, where he is now undergoing the said sentence which expires on 19th April 1908.

2. Orders are now solicited as to whether the prisoner may be sent back to British India to undergo the sentence passed on him by the Hindupur Magistrate. The Dist. Magistrate in his order reviewing the action of the Deputy Amildar Magistrate of Gudibanda, observes that the latter on receipt of the warrant should have reported the matter

The Govt. observe that the action of the Amildar Magistrate of Gudibanda in handing over an under trial prisoner to the Hindupur Taluk Magistrate was irregular. ~~The action was not authorised by the Circular Letter~~ of the Chief Comm's Memo No. III of 23-7-~~07~~ 06 which only directs Magistrates & Police Officers in Mysore to execute criminal processes issued by Magistrates outside the State, under the same conditions and in the same manner as if such process had been issued by a Magistrate in Mysore. The Amildar Magistrate of Gudibanda should have acted as if the warrant had been issued by a Magistrate in Mysore, it would not, however, affect the Prisoner's Trial may not have been acted upon.

to him for orders in accordance with Section 9 of the Prisoners' Testimony Regulation no I of 1894. Government however observe that the provisions of the above Regulation apply only to cases where the prisoner and the Court requiring his presence are both within the Mysore State and that they do not apply to an order issued by a magistrate in British India.

3. The action of the Gudibanda Magistrate in having surrendered Kadarigadu to the Hindupur Magistrate can not however be justified. It was not authorised under the Chief Commissioner's Notification no 111 of 23.7.1878 as Kadarigadu was then in the lock-up as an under-trial prisoner and the notification lays down a direction to Magistrates and police officers in Mysore and not to an officer in charge of a lock-up, regarding the execution of a warrant issued by a magistrate in British India. Nor was ~~it~~ the Magte's action sanctioned ~~supported~~ by Govt. notification no J 219 Legis. 14-04-14 d. the 20th July 1907 ~~which does not apply to the accused was not then confined under a sentence~~, and further as the

which does not apply to the case of a person undergoing sentence in Mysore for a subsequent offence not committed while a prisoner; and he

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation Sheet draft form.)

prisoner accused of an offence punishable with more

offence for which the surrender of the accused is demanded, shall be an extraditable offence, but in the present case the accused is punishable under Sec 176 I.P.C which is not an extradition offence.

It is also unclear under what authority ~~On the other hand, the action of the~~ Hindupur Magistrate in resurrendering the accused to the Mysore State without an Extradition warrant under the provisions of Sec 7 of the Indian Extradition Act XV of 1903 was equally faulty.

3. The question now for consideration is, whether the prisoner is to be resurrendered to the Taluk Magistrate of Hindupur before the expiry of the sentence passed on him by the Taluk Magistrate of Bagepalli. The Govt. observe that if a warrant under the Extradition Act had been applied for, and the surrender of the accused obtained thereunder the provisions of Sec 11 of the Act would have applied and the accused would have had to be re-surrendered on the completion of his trial in Mysore. But as this is not the case and as the

† The Hindupur Taluk Magte has requested that the prisoner might be returned when his trial in Mysore is concluded.

If the resurrender of the prisoner had been secured under the Extradition warrant, provisions of the Indian Extradition Act, he

(D)

~~For these reasons, the Govt. approve of the direction of the District Magistrate that~~ the Hindupur Magistrate be informed ~~of the fact of~~ the prisoner is undergoing sentence in the Central Jail at Bangalore and ~~of the date of the expiry of the said sentence~~. If a warrant is received from the Hindupur Magistrate, it will be executed as soon as the prisoner is released from jail.

remainder of the accused to the Superintendent of the Hindupur Taluk

Print

Secretary.

To

The Dist. Magte of Kolar.
The Superintendent of Police for communication to the Supdt, Central Jail
Other District Magistrates.

Copied
Sd/-
C.S.

Madras (5 copies)
24/3/68.
Compd 24/3/68

Translation to Urdu

G.R.N. 28]

2 WSMP 8

ch

File No. 227-07

Serial No. 2

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

the 190

Date of issue

Signed by

READ.—

Letter no $\frac{5150}{217}$ dated the 15th February 1908 from the District Magistrate of Kolar, forwarding for the ~~information and~~ orders of Govt. a copy of his Proceedings dated the 13th February 1908, passed on the

ORDER THEREON.—No.

Report no. 603 of the 23rd Jany 1908 from the Amildar and 2nd class Magistrate of Bagepalli soliciting instructions in the matter regarding the surrender of a convict Kadarigadu to the Taluk Magistrate of Hindupur.

Order thereon:

OMCT

SUBJECT

MGCPB—20,000—24-2-05

The facts of the case are briefly
These — On the representation of the
Deputy Amildar and 3rd class Magistrate
of Gudibanda Sub Taluk, that one
of the accused jointly tried in Criminal
Case No. 8 of 1907-08 (in Govt vs Kadari
gadu & Abdul Kasim), on the file
of his Court was an old offender,
the case was transferred by the Dt.
Magistrate of Kolar to the Amildar
& 2nd class Magistrate of Bagepalli
Taluk for disposal. Before the
said order reached the Gudibanda
Magistrate, he had
of a warrant issued by from the Hindupur
Taluk Magistrate, had sent
Kadarigadu, one of the accused
in the said case, to Hindupur for
trial for a non-extradition offence
under Sect 176 I. P. C. committed
within the jurisdiction of that
Magistrate. The Hindupur said Magistrate
after having convicted and
sentenced Kadarigadu to three months'
imprisonment, re-transmitted

Two persons Kadarigadu and Abdul Karim were jointly tried by the

On the representation of the magistrate that one of the accused was an old offender

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

Her prisoner requested him to the Gudibanda Magistrate with the request that the said prisoner might ~~may~~ be sent back to undergo the sentence awarded by him after his trial in the Mysore State was ~~is~~ concluded. In pursuance of the Dt. Magistrate's order of transfer referred to above, the Bagepalli Magistrate tried the said Kadarigadu, convicted him under Sections 380 & 75. I. P. C., and sentenced him to three ~~month~~ months' rigorous imprisonment on 20. 1. 1908. The accused was then forwarded to the Central Jail, Bangalore, where he is now undergoing the said sentence which expires on 19th April 1908.

2. ... Orders are now solicited as to whether the prisoner may be sent back to British India to undergo the ~~remainder of~~ sentence passed on him by the Hindupur Magistrate. The District Magistrate in his order reviewing the action of the Deputy Amildar Magistrate of Gudibanda observes that the ~~Dy.~~ latter Amildar on receipt

of the warrant should have reported the matter to him for orders in accordance with Sect: 9 of the Prisoners' Testimony Regulation no V of 1894. Govt. however observe that the provisions of the above Regulation apply only to cases where the prisoner and the Court requiring his presence are both within the Mysore State and that they do not apply to an order issued by a Magistrate in British India.

3. The action of the Gudibanda Magistrate in having surrendered the under-trial prisoner Kadarigadu to the Hindupur magistrate cannot however be justified. as it was not authorised under the Chief Commissioner's Notification no 111 of 23.7.1878 ~~which confers no authority on the officer in charge of the lock up in the capacity of which he is presumed to have handed over the prisoner, nor does the case fall under~~ as Kadarigadu was then in the lock-up as an under-trial prisoner and the notification ~~confers~~ lays down a direction to magistrates and Police officers in Mysore and not to an officer in charge of a lock-up, regarding the execution of a warrant issued by a magistrate in British India.

nor was it supported by Govt. Notification no J 219— Legis 14-04-14 of the 20th July 1907, for the reason that the accused was in the lock-up pending

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

the surrender was demanded

~~withdrawn~~ then not confined under a Sentence and further ~~that~~ as to the offence for which ~~his surrender was demanded~~ the warrant was issued was one punishable under Sect: 176 I. P. C. which is not an extradition offence. . . . .

4. . . . On the other hand the action of the Hindupur Magistrate in resurrendering the accused to the Mysore State without an Extradition Warrant under the provisions of Sect 7 of the Indian Extradition Act XV of 1903 ~~is~~ was equally ~~illegal~~ faulty. and this fact will be brought to the notice of the Govt. of Madras through the Hon'ble the British Resident for such action as they deem fit to take. . . . .

5 . . . The question now for ~~consideration~~ decision is whether the prisoner is to be re-surrendered to the Taluk Magistrate of Hindupur before the Expiry of the sentence ~~awarded~~ passed on ~~to~~ him by the Taluk Magistrate of Bagepalli. Govt. observe

that if a warrant under the Extradition Act had been applied for, & the surrender of the accused obtained thereunder, the provisions of Sect: 11 of the Act would have applied and ~~that~~ the accused would ~~will~~ have had to be resurrendered on the completion of his trial in Mysore. But there has been a series of irregularities and but for the initial error of the Deputy Amildar Magistrate of Gudibanda, the necessity of applying for a warrant with the condition of resurrender attached to it according to Sect: 11, would not have arisen at all. For these reasons, ~~the~~ Govt. ~~are pleased to~~ direct that the accused in question, be surrendered ~~to the~~ Taluk Magistrate of ~~Hindupur~~ here on the expiry of his sentence which he is at present undergoing and on ~~the~~ receipt of a warrant from ~~that~~ the Hindupur Magistrate under ~~the~~ provisions of the Chief Commissioner's Notification no 114 of the 23rd July 1878 as the

approve of the direction of the District Magistrate in having directed that the Hindupur Magistrate be informed of the fact of the prisoner undergoing sentence in the ~~Bangalore~~ Central Jail at Bangalore and of the date of the expiry of the said sentence and direct that if a warrant be received from the Hindupur Magistrate, it ~~shall~~ should be executed as soon as the prisoner is ~~discharged in accordance~~ released from jail.

To. The Dt. Magte of Kolar
~~The Dt. Magte of~~ for information

Secretary.

2 Dmp 15 11

G.R.S. 26]

File No. 227-07
Serial No. 3

Diary No. of letter replied to 2115

Pol. No. 806
Encl 10

General and Revenue Secretariat

( )

, *the* 190 .

Date of issue 31-3-08

Signed by
Mr. C.S. Balasundaramiyer

To

The First Assistant to the
Hon'ble the Resident
in Mysore.

Sir,

I am directed to forward herewith for the information of the Hon'ble the Resident ~~and for communication to the Government of Madras~~ a Copy of the Proceedings of His Highness Gov't No. I 2940-48 Cls 227-07-2, ~~——~~ ver dated

Give me.

SUBJECT.

Pol. Dept.
24/3
24/3

dated 25th March 1908, passing orders on the ~~despatch~~ surrender from custody to this State of a prisoner named Kadarigadu.

I have &c

Chief

Asst Secretary

Fitts
4 Mar 08

SR
27/3/08

List of enclosures

Copied by

Examined by

MGCPB—80,000—16-2-05